

**ISLAND COUNTY PLANNING COMMISSION
SUMMARY MINUTES
COMMISSIONER'S HEARING ROOM, COUPEVILLE, WA
MONDAY, APRIL 11, 2016**

	<i>Members Present</i>	<i>Members Absent</i>
<i>District 1</i>	<i>Val Hillers</i>	
	<i>Dean Enell – Chair</i>	
	<i>Karen Krug</i>	
<i>District 2</i>		<i>Jeffery Wallin</i>
	<i>George Saul</i>	
		<i>Darin Hand</i>
<i>District 3</i>	<i>James Caspers</i>	
		<i>Beth Munson – Vice Chair</i>
		<i>Scott Yonkman</i>

Meeting was called to order at 2:02 p.m. by Chair Enell.

ROLL CALL

Jim Caspers, Dean Enell, George Saul, Karen Krug, Val Hillers

Planning staff present: Hiller West, Director of Community Development

Minutes:

*Commissioner Krug moved to approve minutes from February 22, 2016 and March 14, 2016.
Chair Enell seconded the motion; motion carried unanimously.*

DIRECTOR'S REPORT

Director Hiller West noted that Comprehensive Plan Update public engagement process is continuing. Planning staff have been conducting workshops and updating our 2016 Comprehensive Plan Update Website to include a calendar of workshops and related documents.

He said that he and Keith Higman, Interim Director of Long Range Planning have been interviewing candidates for an Assistant Director position. This new employee will be assisting Mr. Higman and the Long Range Planners complete the Comprehensive Plan Update this year before moving on with general duties in that department.

- Chair Enell asked if the Comprehensive Plan website mapping system had been updated.
 - Director West noted that recent changes to Shoreline Designations will soon be added to the interactive mapping system that is available on the public portal. This will allow members of the public to enter parcel numbers into the system and see what the Shoreline Designation is.

ITEMS FROM THE PUBLIC

Susan Bennett 2191 Goss Ridge Rd., Freeland.

Ms. Bennett voiced concerns about Fish and Wildlife Habitat Conservation Areas (FWCHA) portion of the Comprehensive Plan. She referenced ICC17.02B.430, which details protection standards for Other Fish and Wildlife Habitat Conservation Areas. She stated that she interpreted this section to read that just about every action requires a decision to be made by Planning Director, which seems a little casual to her. She does not believe he should be solely in charge of determining buffers. Ms. Bennett would like to see buffer sizes written into code firmly, rather than being up for interpretation by the Planning Director.

- Mr. West responded that in Critical Areas decisions, some are made by the Hearing Examiner, and some are made by the Board of County Commissioners (BOCC). However, administrative decisions are made by the Planning Director, who is actually the designee. He or she is the one who provides the final decision regarding buffers, but relies on the expertise of staff to thoroughly review and research applications before a decision is issued. He noted that there are provisions within the Code for flexibility in certain situations, but that staff is required to use buffer-width criteria in the Code to guide their decisions.
 - Commissioner Krug confirmed this, and stated that sometimes flexibility is necessary, because every site presents different challenges. Commissioner Caspers agreed.

Chair Enell closed public comment.

PUBLIC HEARING – PROPOSED CHANGES TO ADMINISTRATIVE DECISIONS AND APPEALS

Discussion on amendments to Island County Code 16.13 and 16.19 clarified the following points:

- Most jurisdictions do not allow for reconsideration. The few that do, do not allow the BOCC to be involved; instead, a reconsideration request is submitted to the Hearing Examiner. Mr. West noted that this process wouldn't occur in a public meeting, but would be a closed record decision.
- The Planning Commission is considering a provision that would allow this reconsideration request to go to the BOCC, where changes to the decision would have to be made in an open public meeting, but would be a closed record decision in which no new evidence could be submitted.
- An aggrieved party could ask the BOCC for reconsideration and the Board would have the option to either deny or accept the request.
- This proposed reconsideration option does still involve BOCC in the appeals process, when they have specifically asked to be removed from it.
 - Commissioner Krug stated that she would recommend that the BOCC review the Hearing Examiner packet that Mr. West had presented at the February 8, 2016 Planning Commission meeting. This material contained a suggestion to add optional reconsideration by the Board.

- Ms. Krug also noted that the Hearing Examiner process is expensive, and taking the matter to Superior Court is even more so. This option for reconsideration would allow for a less-expensive alternative.
- Chair Enell expressed that he is in favor of remaining flexible in individual situations, but that he prefers to allow the Hearing Examiner to make a final decision that cannot be overruled by the Board. He noted that the Hearing Examiner has the legal expertise to effectively make decisions that will be less likely to face litigation later.
- Commissioner Caspers is in favor of adopting the amendments as written, since the Board would likely have legal advice from the Prosecutor's office when reconsidering decisions.

Chair Enell asked for public comment, and when none was forthcoming, closed public comment.

Chair Enell moved that the phrase "Upon consideration, the Board may issue the County's final land use decision, or remand the matter back to the Hearing Examiner," be changed to "Upon consideration, the Board may remand the matter back to the Hearing Examiner." Commissioner Saul seconded.

Further discussion clarified the following points:

- Commissioners Hillers and Caspers recommend approving the amendments as written.
- Commissioner Krug noted that in Section H of the Ordinance, "any aggrieved party, including a County Agency" could request reconsideration.
 - Director West clarified that County Agencies, in general, refers to County Departments other than Planning and Community Development such as Public Works or Public Health.
- Fee for reconsideration has not been discussed yet, but is expected to be less than the cost for an appeal.
- The Commission's Findings of Fact should include reference the addition of optional reconsideration for Type II permits.
 - Mr. West agreed to make those changes to the Findings of Fact.

Commissioner Enell restated the motion for the record and a vote was taken. The motion passed; Commissioners Hillers and Caspers opposed.

Commissioner Krug moved that the Findings of Fact be approved with the addition of "Type II" to the Conclusion. Chair Enell seconded the motion. The motion passed; Commissioner Hillers abstained.

Commissioner Krug acknowledged that she understands this is not within the Planning Commission's purview, but suggested that the following be added to the Ordinance: "Whereas the Board desires to allow the option of reconsideration of the Hearing Examiner's decision for type I, II and III decisions, provided the request is timely and limited."

DISCUSSION OF POSSIBLE FUTURE AGENDA ITEMS

Class II Logging Permits

Chair Enell referred to a public comment from the March 28th Planning Commission meeting:

“Susan Bennett, 2191 Goss Ridge Rd., Freeland: Ms. Bennett asked if wetlands and water, and items brought by Whidbey Environmental Action Network (WEAN) to the Growth Management Board were the only items that were going to be discussed as part of the Critical Areas Ordinance (CAO) for this current update. She hoped that logging regulations and protection of prairies would also be discussed, but she stated that she doesn’t think that’s going to happen.”

Chair Enell advocated having a workshop on Island County Code regarding Forest Practices. He noted that Ms. Bennett pointed out a possible gap or loophole in regulation between Island County and Department of Natural Resources (DNR) permitting processes.

Discussion clarified the following points:

- A DNR non-conversion permit (Type II) allows logging, but requires the applicant to replant. This permit does not allow for subsequent development within six years.
- If the property owner decides to develop the land within that six-year moratorium period, they can apply for a clearing and grading permit after-the-fact. If this permit is approved, the six-year moratorium is lifted.
 - Mr. West acknowledged this does occur frequently, and the problems in this area are:
 - Some property owners get no forestry permits at all.
 - If a property owner does intend to develop the land, they should apply for a Type IV DNR permit, but criteria for obtaining this type of permit are much more stringent.
 - Some property owners get a Type II DNR permit, but intend to develop the land. They then apply for an Island County clearing & grading permit, so can bypass the six-year moratorium.
- Commissioners agreed they would like to have this workshop in the future, and would like staff to research other counties’ processes.
 - Director West agreed to schedule a workshop and check into other jurisdictions’ Type II logging permit processes.

Critical Areas vs. Shoreline Master Program (SMP) Amendments

- Commissioner Caspers lives in community of three-acre developments that are within the SMP jurisdiction. He noted that recently many nearby properties had been converted to Critical Areas. He asked staff if there are any changes that can be made to either of these programs that would allow homeowners in similar designations more flexibility in managing their properties.
 - Mr. West stated that in the SMP, changes can be made, but the process can take many years and requires Department of Ecology approval. He noted that it may be a less

burdensome process to make changes in our Critical Areas Ordinance, and offered to put this discussion on a future agenda.

Shoreline Armoring

Commissioner Saul asked Mr. West if he sees a movement toward allowing more armoring of shoreline. He noted that recent storms had destroyed some soft shore armoring, and wondered if more hard armoring will be allowed in the future.

- Mr. West responded that after storms damage property and armoring, property owners are looking for ways to replace and upgrade their armoring. We are trying to clarify this issue for homeowners, but we are not encouraging hard armoring, generally in the form of a concrete bulkhead. The starting point should always be soft shore armoring, which involves anchoring logs, rock placement and vegetation planting.
- He noted that this process does involve Federal Emergency Management Agency and Department of Ecology, who are providing grant money to study how weather patterns are changing.

Commissioner Hillers moved to adjourn; Commissioner Krug seconded; motion carried unanimously.

Meeting adjourned at 2:51 p.m.

Respectfully submitted,

Allegra Clarkson